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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,481	12/13/2001	Martin Wildeman	TIE-003PA	6635

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EXAMINER

ANDERSON, CATHARINE L

ART UNIT	PAPER NUMBER
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3761

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/015,481

Applicant(s)

WILDEMAN, MARTIN

Examiner

C. Lynne Anderson

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f):
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11 December 2006 has been entered.

Response to Arguments

Applicant's arguments filed 11 December 2006 with respect to the rejection(s) of claim(s) 1-26 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Stern et al. (5,902,757).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1- are rejected under 35 U.S.C. 103(a) as being unpatentable over Stern et al. (5,902,757) in view of Morris (6,732,413).

Art Unit: 3761

Stern discloses all aspects of the claimed invention with the exception of the mechanically shrinking the composite by mechanically pressing the composite. Stern discloses a method of forming a fluid containment textile structure by providing a fluid retaining core 12 comprising a blend of hydrophobic textile fibers 16 and hydrophilic textile fibers 14. The hydrophobic textile fibers 16 and hydrophilic textile fibers 14 are needed, or blended, together to form a single layer fluid retaining core 12, as disclosed in column 2, lines 41-42. Since the entire core 12 comprises either hydrophobic textile fibers 16 or hydrophilic textile fibers 14, the hydrophobic and hydrophilic fibers are dispersed throughout the core 12. A plurality of bonding yarns 18 are applied to the core 12 in a repeating stitch bonding pattern to form a technical face and a technical back, as shown in figure 1.

Morris teaches the mechanical shrinking of a nonwoven material by the application of compressive forces, as described in column 1, lines 21-35. This process provides the material with an appealing feel against the skin of a wearer, as disclosed in column 2, lines 21-25. Since the material of Stern is intended to be worn against the skin of a wearer, it would therefore be obvious to one of ordinary skill in the art at the time of invention to mechanically shrink the composite of Stern by the method taught by Morris to provide an appealing feel against the skin of a wearer.

With respect to claim 2, the bonding yarns are of a spun construction, as disclosed in column 3, lines 10-14.

With respect to claim 3, the bonding yarns comprise hydrophobic and hydrophilic fibers, as disclosed in column 3, lines 10-14.

With respect to claim 9, the bonding yarns are polyester and have texture, as disclosed in column 3, line 12.

With respect to claims 10-12, 14-15, and 17, Stern remains silent as to the number of stitches per inch and the percent of shrinkage. It would have been obvious to one of ordinary skill in the art at the time of invention to provide the composite of Stern with 6-10 stitches per inch and a shrinkage of not less than 5%, since it has been held that where the general conditions of the claim are disclosed in the prior art, finding the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

With respect to claims 13 and 21, the bonding yarns define a user contact surface 24, as shown in figure 1.

With respect to claim 18, the bonding yarns comprise polyester and rayon fibers, as disclosed in column 3, lines 10-14.

With respect to claim 22, the stitch bonding pattern is a chain stitch pattern, as shown in figure 4.

With respect to claims 23-26, Stern discloses an incontinence pad or diaper comprising the textile structure, as disclosed in column 1, lines 6-9.

Claims 4-8, 16, and 19-20 rejected under 35 U.S.C. 103(a) as being unpatentable over Stern et al. (5,902,757) in view of Morris (6,732,413), and further in view of Heiman (5,759,662).

Art Unit: 3761

Stern, as modified by Morris, discloses all aspects of the claimed invention with the exception of the bonding yarn comprising cotton. Heiman teaches the use of either 100% polyester yarn or a yarn comprising a blend of polyester and cotton, as described in column 3, lines 35-38, as equivalent for use as bonding yarn in a fluid containment textile structure. Therefore, because polyester/cotton blend yarn and polyester yarn were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute a polyester/cotton blend yarn.

With respect to claims 6 and 19, Heiman remains silent as to the proportions of polyester and cotton in the bonding yarn. It would have been obvious to one of ordinary skill in the art at the time of invention to make the yarn 65% polyester and 35% cotton, since it has been held that where the general conditions (i.e. a polyester/cotton blend) are disclosed in the prior art, finding the optimum or workable ranges involves only routine skill in the art.

With respect to claims 7-8 and 20, Heiman remains silent as to the cotton count of the bonding yarn. It would have been obvious to one of ordinary skill in the art at the time of invention to make the yarn with a cotton count of about 10, since it has been held that where the general conditions (i.e. a polyester/cotton blend) are disclosed in the prior art, finding the optimum or workable ranges involves only routine skill in the art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (571) 272-4932. The examiner can normally be reached on Monday through Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CMA

cla

March 2, 2007

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

